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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,721	09/06/2006	Lionel Wolovitz	307742US91PCT	2053
22850 7590 05/24/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER RUBIN, BLAKE J				
ART UNIT 2457		PAPER NUMBER		
NOTIFICATION DATE 05/24/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/553,721

**Applicant(s)**

WOLOVITZ ET AL.

**Examiner**

BLAKE RUBIN

**Art Unit**

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11-18, 20-23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-18, 20-23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date 5/4/10 & 5/10/10
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. This action is a response communications filed March 24, 2010.
2. Claims 1-9, 11-18, and 20-23, and 25 are pending in this application. Claims 1-9, 11-13, 15, 17-18, 20-22, and 25 are currently amended. Claims 10, 24, and 26-37 are currently cancelled.
3. The application is a 371 of PCT/GB04/01685 filed April 19, 2004, which further claims foreign priority to United Kingdom patent application priority # 0308991.9, filed April 17, 2003.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. **Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**
6. With respect to claim 1, line 20 recites the phrase, "predetermined proportion", the examiner interprets the phrase to refer to the proportion of software distributed between the terminal and server, which does not appear to have the appropriate constraint defining how the "software" is being distributed (ie memory allocation, processor demands, task execution, etc). The examiner believes that the applicant

intends for the proportionality limitation to refer to the computing resources of the terminal and server, but the claims lacks the details of such a distribution method.

***Claim Rejections - 35 USC § 103***

31. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

32. **Claims 1-9, and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gustafsson (U.S. Patent No. 6,424,841) in view of Maffeis et al (U.S. Patent No. 6,877,023, hereinafter Maffeis).**

33. With respect to claim 1, Gustafsson discloses a data access, replication or communications system (column 5, lines 10-15) comprising:

A terminal (column 5, lines 16-21) including an electronic memory storing a terminal-side packet-queuing executable (column 6, lines 46-49) and a processor provided to execute the terminal-side packet-queuing executable (column 6, lines 46-49) to enable a communication therewith (column 6, lines 41-43) independent of a session-based transport layer protocol (column 10, lines 52-65), there terminal-side packet-queuing executable dividing a message into a plurality of packets (column 3, lines 12-13); and

A server (column 6, lines 50-51) including an electronic memory storing a server-side packet-queuing executable (column 7, lines 22-26) and a processor provided to execute the server-side packet-queuing executable (column 7, lines 22-26) to enable a communication therewith (column 7, lines 22-26) independent of a transport layer session-based protocol (column 10, lines 52-65), the server-side packet queuing executable dividing a message into a plurality of packets (column 3, lines 12-13);

Wherein, the terminal-side packet-queuing executable and the server-side packet-queuing executable exchange a packet of the messages (column 7, lines 22-26) over a radio network (column 10, lines 36-42) using a session-independent transport layer protocol (column 10, lines 52-65) and in dependence on acknowledgement of receipt of the packet by a receiving one of the terminal side packet-queuing executable and the server-side packet queuing executable (column 7, lines 34-38),

But Gustafsson fails to disclose a distributed software application.

However, Maffeis discloses the terminal-side packet queuing executable and the server-side packet queuing executable together constituting a software application (column 1, lines 15-20) that is distributed between the terminal and the server in a predetermined proportion (column 3, lines 15-20) and cooperatively functions as a client of a second server (column 4, lines 12-20), the second server performing a data handling service related to the message (column 4, lines 12-20).

It would have been obvious to one skilled in the art at the time the invention was made to combine the wireless efficiency of Gustafsson with the middleware messaging system of Maffeis. The motivation to do so being, to provide a more efficient means of

communicating over the network by having the ability to utilize more network bandwidth independent of transport protocol (Maffeis abstract).

34. With respect to claim 2, the combination of Gustafsson and Maffeis discloses the system of claim 1, Maffeis further discloses wherein the message queuing software application is message oriented middleware (column 1, lines 15-20).

35. With respect to claim 3, the combination of Gustafsson and Maffeis discloses the system of claim 1, Maffeis further discloses insulation of a terminal-side packet queuing program from being affected if a connection over the radio network is broken (column 7, lines 1-7) by queuing packets in readiness for the connection to be re-established (column 7, lines 1-7), enabling the terminal program to proceed to another task (column 7, lines 1-7).

36. With respect to claim 4, the combination of Gustafsson and Maffeis discloses the system of claim 1, Gustafsson further discloses insulation of a server side packet-queuing executable from being affected if a connection over the radio network is broken (column 7, lines 1-7) by queuing packets in readiness for the connection to be re-established (column 7, lines 1-7), enabling the server program to proceed to another task (column 7, lines 1-7).

37. With respect to claim 5, the combination of Gustafsson and Maffeis discloses the system of claim 1, Maffeis further discloses each message that is queued defines part or all of an event (column 1, lines 20-21), the event describing a change to data stored at either the terminal or second server (column 1, lines 20-21) in enough detail to enable data replication to take place without a need for a synchronization engine (column 4, lines 20-23), data replication being achieved by sending events rather than a complete dataset of stored data for synchronization (column 4, lines 20-23).

38. With respect to claim 6, the combination of Gustafsson and Maffeis disclose the system of claim 5, Maffeis further discloses the terminal-side packet queuing executable can create and queue packet defining events (column 4, lines 17-20), enabling the terminal to proceed to another task (column 4, lines 49-50). Gustafsson discloses even if a network connection over the radio network is broken (column 7, lines 1-7).

39. With respect to claim 7, the combination of Gustafsson and Maffeis disclose the system of claim 5, Maffeis further discloses the server-side packet queuing executable can create and queue packet defining events (column 4, lines 17-20), enabling the second server to proceed to another task (column 4, lines 49-50). And Gustafsson discloses even if a network connection is broken (column 7, lines 1-7).

40. With respect to claim 8, the combination of Gustafsson and Maffeis disclose the system of claim 6, Maffeis further discloses the queued packets persist in non-volatile memory when the terminal is switched off (column 2, lines 65-67; column 3, lines 1-2).

41. With respect to claim 9, the combination Gustafsson and Maffeis disclose the system of claim 7, Maffeis further discloses the queued packets persist in non-volatile memory when the server is switched off (column 2, lines 65-67; column 3, lines 1-2).

42. With respect to claim 11, the combination of Gustafsson and Maffeis disclose the system of claim 6, Gustafsson further discloses the packets queued on the terminal side include data indicative of references to data stored on the server (column 7, lines 34-40).

43. With respect to claim 12, the combination of Gustafsson and Maffeis discloses the system of claim 10, Maffeis further discloses a message queuing software application (column 2, lines 61-64) on the terminal side insulates the terminal program from being affected if a connection over the radio network is re-established by automatically causing a next packet in a terminal-side queue to be sent (column 3, lines 15-20).

44. With respect to claim 13, the combination of Gustafsson and Maffeis discloses the system of claim 10, Maffeis further discloses a message queuing application system



on the server side insulates the server program from being affected if a connection over the network is re-established by automatically causing a next packet in a server-side queue to be sent (column 3, lines 15-20).

45. With respect to claim 14, the combination of Gustafsson and Maffeis discloses the system of claim 1, Gustafsson further discloses wherein the terminal-side executable processes events from a terminal, which is an e-mail or PIM program (column 9, lines 55-59).

46. With respect to claim 15, the combination of Gustafsson and Maffeis discloses the system of claim 1, Gustafsson further discloses wherein the server-side packet queuing executable processes events from a server program running on the second server, the server program including a mail server program (column 9, lines 55-59).

47. With respect to claim 16, the combination of Gustafsson and Maffeis discloses the system of claim 1, Gustafsson further discloses wherein the terminal is a wireless terminal such as a mobile telephone or smartphone (column 5, lines 16-22).

48. With respect to claim 17, the combination of Gustafsson and Maffeis discloses the system of claim 1, Gustafsson further discloses the radio network is a wireless WAN network such as a GPRS or UMTS network (column 5, lines 10-15).

49. With respect to claim 18, the combination of Gustafsson and Maffeis discloses the system of claim 1, discloses the server stores a logon password sent from the terminal and can use the logon password to access the server program running on the second server (column 11, lines 31-48).

**50. Claims 20-23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Gustafsson and Maffeis, as applied to claim 1 above, in view of De Mendonca et al (U.S. Patent Application Publication No. 2004/0172453, hereinafter Mendonca).**

51. With respect to claim 20, the combination of Gustafsson and Maffeis discloses the system of claim 1, but does not disclose automatically deleting data.

52. However, Mendonca discloses the terminal monitors available memory on the terminal (paragraph [0005]) and automatically deletes data stored on the terminal (paragraph [0016], lines 4-9, where data is disclosed as *e-mail body text*) that meets pre-defined criteria of at least one of age, use, and size (paragraph [0016], lines 4-9, *usage based rules or time schedules*) without affecting a corresponding data stored on the second server (paragraph [0016], lines 4-9).

53. It would have been obvious to one skilled in the art at the time the invention was made to combine the teachings of Gustafsson and Maffeis with the data archiving of Mendonca. The motivation to do so being, to provide a more resourceful means of communicating over the network by purging extraneous data stores.

54. With respect to claim 21, the combination of Gustafsson and Maffeis and Mendonca disclose the system of claim 20, Mendonca further discloses a user option to delete data stored on the terminal without affecting the corresponding data stored on the server (paragraph [0016], lines 4-9) is displayed at a same level in a menu hierarchy displayed on the terminal as an option to delete data stored on the terminal (paragraph [0017], lines 7-10) together with the corresponding data stored on the second server (paragraph [0017], lines 11-15, *delete from the mail server*).

55. With respect to claim 22, the combination of Gustafsson and Maffeis and Mendonca disclose the system of claim 20, Mendonca further discloses the data is message data and the terminal retains data that allows the message data to be re-supplied from the second server if requested by a user (paragraph [0016], lines 4-15, *header information*).

56. With respect to claim 23, the combination of Gustafsson and Maffeis and Mendonca disclose the system of claim 20, Mendonca further discloses the data is not released from memory if the data is marked as unread, open for user viewing or action, or there is a pending action related to the data requesting additional data from the second server (paragraph [0016], lines 4-15, where the data being marked as open for action is disclosed as *header information*).

57. With respect to claim 25, the combination of Gustafsson and Maffei discloses the system of claim 1, but does not disclose deleting messages.

However, Mendonca discloses the terminal enables a user to select a release option to delete a message stored on the terminal without deleting a corresponding message stored on the second server (paragraph [0016], lines 4-9) and to select a delete option to delete a message stored on the terminal (paragraph [0016], lines 4-9) and the corresponding message on the server (paragraph [0017], lines 4-15, *delete from mail server*), the release and delete options appearing at a same level in a menu hierarchy displayed on the terminal (paragraph [0017], lines 7-11).

It would have been obvious to one skilled in the art at the time the invention was made to combine the teachings of Gustafsson and Maffei with the organizing interface of Mendonca. The motivation to do so being, to provide a more resourceful means of communicating over the network by enabling storage by various devices to be controlled through a menu.

### ***Response to Arguments***

58. Applicant's arguments with respect to claims 1-9, 11-18, and 20-23, and 25 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

59. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- |    |                |            |              |
|----|----------------|------------|--------------|
| a. | Black et al    | Patent No. | 5,878,056    |
| b. | Craddock et al | Patent No. | 6,351,771    |
| c. | Ehrman et al   | Pub. No.   | 2003/0130913 |
| d. | Belfiore et al | Patent No. | 6,990,513    |
| e. | Hanson et al   | Patent No. | 7,136,645    |
| f. | Pratt et al    | Pub. Pub.  | 2008/0279204 |

60. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **BLAKE RUBIN** whose telephone number is (571) 270-3802. The examiner can normally be reached on M-R: 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

5/18/10

/Rubin Blake/  
Examiner, Art Unit 2457

/ARIO ETIENNE/  
Supervisory Patent Examiner, Art Unit 2457